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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,630	02/14/2001	Fabrice Bourgart	01056/TL	2668

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EXAMINER

PAYNE, DAVID C

ART UNIT PAPER NUMBER

2633

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/783,630

Applicant(s)

BOURGART, FABRICE

Examiner

David C. Payne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6 and 8-13 is/are rejected.  
7) ☒ Claim(s) 7 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-6 and 8-13 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1, 2, 5, 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy US 2002/0112068 A1 (Murphy) in view of Sandler et al. US 5,608,734 (Sandler).

Regarding claim 1, Murphy (figures 3, and 4) disclosed

A method of setting up two-way optical communication between a first unit (410) and a second unit (411) suitable for operating in a given communication mode selected from a plurality of communication modes, comprising:

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defining a plurality of frame patterns in the first unit with each frame pattern being appropriate to one of said communication modes;

the communication mode of the second unit being the mode which corresponds to the frame pattern which gave rise to said coherent response (page/paragraph: 3/0036-0038)

Murphy does not describe his invention in terms of a central and remote unit.

However, the clients (as seen in Figure 4, e.g., page/paragraph: 5/0054) interact in much the same way as the applicant has claimed. In this respect, it would have been obvious to one of ordinary skill in the art at the time of invention to use the frame detection mechanism in any number of LAN configurations including a central/remote node configuration due to the benefit of having a central server provide transparent service to multiple remote sites and remain protocol agnostic.

Murphy does not disclose sending said plurality of frame patterns sequentially until a coherent response is obtained from said second unit,

Sandler disclosed sending a successive sequence of frame patterns for recognition (e.g., col./line: 7/1-10). It would have been obvious to one of ordinary skill in the art at the time of invention to recognize a frame from sequential or successive sequence of frames so as to give the receiver an opportunity to find the recognizable pattern.

Regarding claim 2, Murphy (figures 3, and 4) disclosed wherein the plurality of communication modes comprises simultaneous communication modes and alternating communication modes. (Figure 3 #345)

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Regarding claims 5 and 6, Murphy does not disclose wherein a complete frame, without any interruption of transmission, constitutes the frame pattern appropriate to simultaneous communication modes. However, it would have been obvious to one of ordinary skill in the art at the time of invention that Murphy chooses to either interrupt or not interrupt frames since there is a wait period for recognition and acknowledgment of all frame types where the wait period is up to 2 seconds which is considered along enough time to complete receive a frame without interruption and that frame communication can be carrier out with other units simultaneously if required (page/paragraph: 3/0038, 0039).

Regarding claim 11, Murphy wherein a frame header cell includes a special field specifying the frame pattern used (Figure 2 #260, page/paragraph: 3/0034).

4. Claims 3, 4, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy US 2002/0112068 A1 (Murphy) in view of Fussgager US 5,050,952 (Fussgager).

Regarding claims 12 and 13, Murphy does not disclose wherein the remote units are distinguished by wavelength, and the step of sending the plurality of frame patterns sequentially is performed in succession at each remote unit wavelength for each frame pattern until said coherent response is obtained. Fussgager disclosed transmission between stations over multiple wavelengths (see Figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to use the

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Murphy frame detection over a multi-wavelength system for a benefit such as increasing the bandwidth between stations or segregating traffic types between stations.

Regarding claims 3 and 4, the modified invention of Murphy and Fussgager disclosed wherein the communication modes comprise duplex, and duplex modes (e.g., col./line: 2/5-10). Furthermore, duplex is understood to cover all the variants of duplex transmission, as they are well understood in the art.

#### *Allowable Subject Matter*

5. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (571) 272-3024. The examiner can normally be reached on M-F, 7a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dcp



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